

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION III

1650 Arch Street

Philadelphia, Pennsylvania 19103-2029

September 12, 2003

**SUBJECT:** Approval of Maryland and Delaware's Solid Waste  
Permit Programs to Control Hazardous Waste  
Disposal

**FROM:** James J. Burke, Director  
Waste & Chemicals Management Division

**TO:** Donald S. Welsh  
Regional Administrator

Attached for your signature are two Federal Register notices concerning EPA's approval of Delaware and Maryland's programs which regulate the disposal of hazardous waste from Conditionally Exempt Small Quantity Generators (CESQGs).

These State regulations are based on federal regulations at 40 CFR, Part 261 which specify disposal alternatives for CESQG wastes and 40 CFR, Part 257 which set standards for landfills which are not hazardous waste or Municipal Solid Waste Landfills (MSWLFs) and receive CESQG waste. Before EPA revised its waste regulations at 40 CFR, sections 261.5 and 257, subpart B, CESQG waste could be disposed in a hazardous waste or municipal solid waste landfill, or any other type of disposal facility licensed by a State. As of July 1, 1996, the later type of landfill now has to meet the federal standards at 40 CFR, Part 257, subpart B. The Waste & Chemicals Management Division, in consultation with the Office of Regional Counsel, has reviewed Delaware and Maryland's regulations and has determined that they satisfy the federal requirements for the proper disposal of CESQG wastes.

**Background:**

Under 40 CFR, Section 261.5, Special Requirements for Hazardous Waste Generated by Conditionally Exempt Small Quantity Generators, which was originally promulgated on March 24, 1986 (51FR 10174), CESQG hazardous waste could be disposed in a state or EPA regulated hazardous, municipal or other type of waste landfill. At that time, EPA had only promulgated rules for hazardous waste landfills and MSWLFs, not for other types of landfills, which, if licensed by a state, could accept CESQG waste. On July 1, 1996 (61 FR 34252-34278), EPA promulgated criteria under its solid waste program at 40 CFR, Part 257, subpart B, for non-municipal, non-hazardous waste landfills which accept CESQG hazardous waste. In the same

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notice, EPA also revised its hazardous waste program regulations at 40 CFR, sections 261.5 (f)(3) and 261.5 (g)(3) to only allow the disposal of CESQG waste in hazardous waste landfills or MSWLFs which meet the appropriate federal regulations, or in non-municipal, non-hazardous waste landfills which meet the requirements of 40 CFR, Part 257, subpart B. The attached Immediate Final Rules approve regulatory provisions in the State of Delaware, which specify that CESQG waste can only be disposed in permitted hazardous waste landfills, and in the State of Maryland, which restricts the disposal of CESQG waste to any of the three types of landfills specified in the Federal regulations.

Based on our review of Delaware and Maryland's regulations and supporting materials, we believe that the States' regulations which control the disposal of CESQG wastes meet the EPA requirements. We request that you concur with our recommendation and sign the two attached Federal Register notices. We are approving Delaware and Maryland's regulations through an Immediate Final Rule and are publishing this rule without a prior proposal because we believe it is not controversial. Furthermore, we expect no comments that oppose this action. However, if we do receive adverse, written comments, we will withdraw the Immediate Final Rule and use a companion Proposed Notice to respond to comments and issue a Final Determination.

We have also prepared for your signature a letter from you to Mr. John A. Hughes, Secretary, Delaware Department of Natural Resources and Environmental Control and Mr. Kendl P. Philbrick, Acting Secretary, Maryland Department of the Environment, advising them of the anticipated publication of the Federal Register notice approving these States' regulations which control the disposal of CESQG wastes.

Attachments (4)



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Philadelphia, Pennsylvania 19103-2029

September 12, 2003

The Honorable John A. Hughes, Secretary  
Delaware Department of Natural Resources  
& Environmental Control  
89 Kings Highway  
Dover, Delaware 19901

Dear Secretary Hughes:

I am pleased to advise you that today I signed the Federal Register notice which approves Delaware's regulations which require that Conditionally Exempt Small Quantity Generator or CESQG waste be disposed only in a hazardous waste landfill subject to RCRA Subtitle C. This approval will become effective 60-days from the date it is published in the Federal Register, unless we receive adverse comments within 30-days of the publication date.

Previously, CESQG waste could be disposed in other types of landfills, for which the U.S. Environmental Protection Agency (EPA) had not yet promulgated standards. In 1996, EPA promulgated standards for non-municipal, non-hazardous waste landfills under 40 CFR, section 257, subpart B. Delaware's regulatory amendment which prohibits the disposal of CESQG wastes in any type of landfill other than a hazardous waste landfill is more stringent than EPA.

EPA commends you and your staff for the efforts put forth in amending Delaware's regulations. Please feel free to contact Shawn Garvin, Delaware Liaison Officer at 215-814-2998 if you have any questions on this approval.

Sincerely,

Donald S. Welsh  
Regional Administrator

